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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/570,028

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Reiko Moriya

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER

KIDWELL, MICHELE M

ART UNIT

PAPER NUMBER

3761

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/570,028	Applicant(s) MORIYA ET AL.	
	Examiner Michele Kidwell	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 07 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 – 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Sugiyama et al. (US 7,175,613).

With reference to claim 1, Sugiyama et al. (hereinafter “Sugiyama”) discloses an absorbent article (10) configured to be worn by a user, where the article has a front side corresponding to a front side of a body of the user when the article is worn by the user, and a rear side corresponding to a rear side of the body of the user when the article is worn by the user (figure 7), the article including:

a first sheet leak preventer (13) extending from the front side of the absorbent article to the rear side of the absorbent article, and having a front part disposed on the front side of the absorbent article and rear part disposed on the rear side of the absorbent article;

a second sheet leak preventer (16) disposed above an upper side of the first leak preventer and positioned over a rear part of the first leak preventer, where the

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second leak preventer does not substantially extend over a front part of the first leak preventer and;

an absorber (28) containing a super absorbent polymer (col. 11, lines 18 – 23) capable of absorbing a body fluid, and disposed above an upper side of the first preventer extending from the front part of the first leak preventer beneath the second leak preventer in at least one layer wherein the second leak preventer is closer to a skin of the user than the first leak preventer when the article is worn by the user as set forth in figure 8.

With reference to claim 2, Sugiyama discloses an absorbent article in which a urine introduction part forming member (44) is bonded to a part of a lower surface of a front end of the second leak preventer as set forth in figure 2a.

As to claim 3, Sugiyama discloses an absorbent article further including a urine/feces stopping member (44) in a front end or in a vicinity of the front end of the second leak preventer as set forth in figure 2a.

With reference to claim 4, Sugiyama discloses an absorbent article in which the absorber is separated (area 29) and provided on right and left sides in a front part of the first leak preventer as set forth in figure 7.

With respect to claim 5, Sugiyama discloses an absorbent article in which the absorber is separated (area 17) and provided on right and left sides in a rear part of the first leak preventer as set forth in figure 7.

As to claims 6 and 7, Sugiyama discloses an absorbent article in which a part or entire periphery of the first leak preventer rises upward and/or in which the right and left side walls of the first leak preventer are folded inward as set forth in figures 7 – 8.

As to claim 8, Sugiyama discloses an absorbent article which right and left side walls of the first leak preventer are formed into folded shape as set forth in figure 7.

Regarding claim 9, Sugiyama discloses an absorbent article in which the absorber is provided in each of at least two of two or more stepped-spaces defined by the right and left side walls of the first leak preventer formed into folded shape as set forth in figure 8.

With respect to claim 10, Sugiyama discloses an absorbent article in which a part or entire periphery of the second leak preventer rises upward as set forth in figure 7.

As to claim 11, see the rejection of claim 1 and figure 7. The article of Sugiyama is fully capable of performing the recited function.

Response to Arguments

Applicant's arguments with respect to claims 1 – 11 have been considered but are moot in view of the new ground(s) of rejection.

Initially, applicant argues that the layer 16 is not a second leak preventer because the layer contains an opening. The examiner contends that the presence of an opening does not preclude the layer from receiving feces. Layer 16 is a permeable

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layer which allows the layer to receive emitted matter. In light of such, the rejection is maintained.

The applicant's argument with respect to the amount of urine absorbed by respective absorbers is considered non-persuasive because the amount of fluid absorbed is in part dependent upon the amount of urine emitted. Therefore, the argument as to the functionality of the absorbers is ineffective.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michele Kidwell/
Primary Examiner, Art Unit 3761